

AMENDED IN SENATE JANUARY 23, 2014

AMENDED IN SENATE JANUARY 6, 2014

AMENDED IN SENATE MAY 21, 2013

AMENDED IN SENATE APRIL 15, 2013

SENATE BILL

No. 673

Introduced by Senator DeSaulnier

February 22, 2013

An act to amend Sections 31468, 31529.9, 31557.3, and 31580.2 of, and to add Section 31522.9 to, the Government Code, relating to county employees' retirement.

LEGISLATIVE COUNSEL'S DIGEST

SB 673, as amended, DeSaulnier. County employees' retirement: Contra Costa County.

The County Employees Retirement Law of 1937 authorizes counties and districts to establish retirement systems pursuant to its provisions in order to provide pension benefits to their employees. The law defines a district for these purposes and includes specified county retirement systems within that definition. The law generally provides that the personnel of a county retirement system are county employees, but also authorizes the board of retirement in specified counties to appoint certain personnel who are designated employees of the retirement system.

This bill would make the Contra Costa County retirement system for purposes of the County Employees Retirement Law of 1937. The bill would authorize the board of retirement to appoint a retirement administrator and other personnel as required to accomplish the necessary work of the board and would authorize the administrator to make appointments on its behalf. The bill would provide that these

employees are employees of the retirement system, not the county, and would except them from civil service provisions and merit system rules that would otherwise apply. The bill would make the retirement board a public agency for purposes of collective bargaining and provide that the compensation of the personnel so employed by the board is an expense of the system.

The bill would require the retirement system to retain, for a 90-day transition period, nonprobationary county employees employed at the retirement system's facilities who were covered by a memorandum of understanding, as specified. The bill would provide that, during the 90-day transition period, probationary employees would maintain only those rights they had pursuant to their employment with the county. The bill would require the retirement system to recognize as the exclusive representative of the former county employees who are retained, as specified, those recognized employee organizations that represented the employees when they were employed by the county, and would require that the initial terms and conditions for those employees be as previously established. The bill would make technical and conforming changes in relation to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 31468 of the Government Code is
2 amended to read:
3 31468. (a) "District" means a district, formed under the laws
4 of the state, located wholly or partially within the county other
5 than a school district.
6 (b) "District" also includes any institution operated by two or
7 more counties, in one of which there has been adopted an ordinance
8 placing this chapter in operation.
9 (c) "District" also includes any organization or association
10 authorized by Chapter 26 of the Statutes of 1935, as amended by
11 Chapter 30 of the Statutes of 1941, or by Section 50024, which
12 organization or association is maintained and supported entirely
13 from funds derived from counties, and the board of any retirement
14 system is authorized to receive the officers and employees of that
15 organization or association into the retirement system managed
16 by the board.

1 (d) “District” also includes, but is not limited to, any sanitary
2 district formed under Part 1 (commencing with Section 6400) of
3 Division 6 of the Health and Safety Code.

4 (e) “District” also includes any city, public authority, public
5 agency, and any other political subdivision or public corporation
6 formed or created under the constitution or laws of this state and
7 located or having jurisdiction wholly or partially within the county.

8 (f) “District” also includes any nonprofit corporation or
9 association conducting an agricultural fair for the county pursuant
10 to a contract between the corporation or association and the board
11 of supervisors under the authority of Section 25905.

12 (g) “District” also includes the Regents of the University of
13 California, but with respect only to employees who were employees
14 of a county in a county hospital, who became university employees
15 pursuant to an agreement for transfer to the regents of a county
16 hospital or of the obligation to provide professional medical
17 services at a county hospital, and who under that agreement had
18 the right and did elect to continue membership in the county’s
19 retirement system established under this chapter.

20 (h) “District” also includes the South Coast Air Quality
21 Management District, a new public agency created on February
22 1, 1977, pursuant to Chapter 5.5 (commencing with Section 40400)
23 of Part 3 of Division 26 of the Health and Safety Code.

24 (1) Employees of the South Coast Air Quality Management
25 District shall be deemed to be employees of a new public agency
26 occupying new positions on February 1, 1977. On that date, those
27 new positions are deemed not to have been covered by any
28 retirement system.

29 (2) No retirement system coverage may be effected for an
30 employee of the South Coast Air Quality Management District
31 who commenced employment with the district during the period
32 commencing on February 1, 1977, and ending on December 31,
33 1978, unless and until the employee shall have elected whether to
34 become a member of the retirement association established in
35 accordance with this chapter for employees of Los Angeles County
36 or the retirement association established in accordance with this
37 chapter for employees of San Bernardino County. The election
38 shall occur before January 1, 1980. Any employee who fails to
39 make the election provided for herein shall be deemed to have
40 elected to become a member of the retirement association

1 established in accordance with this chapter for the County of Los
2 Angeles.

3 (3) The South Coast Air Quality Management District shall
4 make application to the retirement associations established in
5 accordance with this chapter for employees of Los Angeles County
6 and San Bernardino County for coverage of employees of the South
7 Coast Air Quality Management District.

8 (4) An employee of the South Coast Air Quality Management
9 District who commenced employment with the district during the
10 period commencing on February 1, 1977, and ending on December
11 31, 1978, and who has not terminated employment before January
12 1, 1980, shall be covered by the retirement association elected by
13 the employee pursuant to paragraph (2). That coverage shall be
14 effected no later than the first day of the first month following the
15 date of the election provided for in paragraph (2).

16 (5) Each electing employee shall receive credit for all service
17 with the South Coast Air Quality Management District. However,
18 the elected retirement association may require, as a prerequisite
19 to granting that credit, the payment of an appropriate sum of money
20 or the transfer of funds from another retirement association in an
21 amount determined by an enrolled actuary and approved by the
22 elected retirement association's board. The amount to be paid shall
23 include all administrative and actuarial costs of making that
24 determination. The amount to be paid shall be shared by the South
25 Coast Air Quality Management District and the employee. The
26 share to be paid by the employee shall be determined by good faith
27 bargaining between the district and the recognized employee
28 organization, but in no event shall the employee be required to
29 contribute more than 25 percent of the total amount required to be
30 paid. The elected retirement association's board may not grant that
31 credit for that prior service unless the request for that credit is
32 made to, and the required payment deposited with, the elected
33 retirement association's board no earlier than January 1, 1980, and
34 no later than June 30, 1980. The foregoing shall have no effect on
35 any employee's rights to reciprocal benefits under Article 15
36 (commencing with Section 31830).

37 (6) An employee of the South Coast Air Quality Management
38 District who commenced employment with the district after
39 December 31, 1978, shall be covered by the retirement association
40 established in accordance with this chapter for employees of San

1 Bernardino County. That coverage shall be effected as of the first
2 day of the first month following the employee's commencement
3 date.

4 (7) Notwithstanding paragraphs (2) and (4) above, employees
5 of the South Coast Air Quality Management District who were
6 employed between February 1, 1977, and December 31, 1978, and
7 who terminate their employment between February 1, 1977, and
8 January 1, 1980, shall be deemed to be members of the retirement
9 association established in accordance with this chapter for the
10 employees of Los Angeles County commencing on the date of
11 their employment with the South Coast Air Quality Management
12 District.

13 (i) "District" also includes any nonprofit corporation that
14 operates one or more museums within a county of the 15th class,
15 as described by Sections 28020 and 28036 of the Government
16 Code, as amended by Chapter 1204 of the Statutes of 1971,
17 pursuant to a contract between the corporation and the board of
18 supervisors of the county, and that has entered into an agreement
19 with the board and the county setting forth the terms and conditions
20 of the corporation's inclusion in the county's retirement system.

21 (j) "District" also includes any economic development
22 association funded in whole or in part by a county of the 15th class,
23 as described by Sections 28020 and 28036 of the Government
24 Code, as amended by Chapter 1204 of the Statutes of 1971, and
25 that has entered into an agreement with the board of supervisors
26 and the county setting forth the terms and conditions of the
27 association's inclusion in the county's retirement system.

28 (k) "District" also includes any special commission established
29 in the Counties of Tulare and San Joaquin as described by Section
30 14087.31 of the Welfare and Institutions Code, pursuant to a
31 contract between the special commission and the county setting
32 forth the terms and conditions of the special commission's
33 inclusion in the county's retirement system with the approval of
34 the board of supervisors and the board of retirement.

35 (l) (1) "District" also includes the retirement system established
36 under this chapter in Orange County.

37 (2) "District" also includes the retirement system established
38 under this chapter in San Bernardino County at such time as the
39 board of retirement, by resolution, makes this section applicable
40 in that county.

1 (3) “District” also includes the retirement system established
2 under this chapter in Contra Costa County.

3 SEC. 2. Section 31522.9 is added to the Government Code, to
4 read:

5 31522.9. (a) The board of retirement of a county may appoint
6 a retirement administrator and other personnel as are required to
7 accomplish the necessary work of the board. The board may
8 authorize the administrator to make these appointments on its
9 behalf. Notwithstanding any other law, the personnel so appointed
10 shall not be county employees but shall become employees of the
11 retirement system, subject to terms and conditions of employment
12 established by the board of retirement, including those set forth in
13 memoranda of understanding executed by the board of retirement
14 and recognized employee organizations.

15 (b) Sections 31522.1 and 31522.2 shall not apply to a retirement
16 system that appoints personnel pursuant to this section.

17 (c) The retirement system that appoints personnel pursuant to
18 this section is a public agency for purposes of the
19 Meyers-Milias-Brown Act (Chapter 10 (commencing with Section
20 3500) of Division 4).

21 (d) The compensation of personnel appointed pursuant to this
22 section shall be an expense of administration of the retirement
23 system, pursuant to Section 31580.2, except as provided in Sections
24 31529.5, 31529.9, and 31596.1.

25 (e) The board of retirement and the board of supervisors may
26 enter into agreements as they determine are necessary and
27 appropriate in order to carry out the provisions of this section.

28 (f) The retirement system, upon the effective date of this section,
29 shall retain, for a 90-day transition employment period,
30 nonprobationary employees who, upon the effective date of this
31 section, were covered by a county memorandum of understanding
32 and employed by the county at the retirement system’s facilities,
33 unless just cause exists to terminate the employees or legitimate
34 grounds exist to lay off these employees. If during the 90-day
35 period the retirement system determines that a layoff of these
36 employees is necessary, the retirement system shall retain the
37 employees by seniority within job classification. The terms and
38 conditions of employment of the employees retained pursuant to
39 this subdivision shall be subject to the terms and conditions
40 established by the applicable memoranda of understanding

1 executed by the board of retirement and the recognized employee
2 organizations. During the 90-day transition period, probationary
3 employees shall maintain only those rights they initially acquired
4 pursuant to their employment with the county.

5 (g) Subject to the employees' rights under the
6 Meyers-Milias-Brown Act (Chapter 10 (commencing with Section
7 3500) of Division 4), the retirement system, upon the effective
8 date of this section, shall recognize as the exclusive representative
9 of the employees retained pursuant to subdivision (f) the recognized
10 employee organizations that represented those employees when
11 employed by the county. The initial terms and conditions for those
12 employees shall be as previously established by the applicable
13 memoranda of understanding executed by the county and
14 recognized employee organizations.

15 (h) This section shall apply only in Contra Costa County.

16 SEC. 3. Section 31529.9 of the Government Code is amended
17 to read:

18 31529.9. (a) In addition to the powers granted by Sections
19 31522.5, 31522.9, 31529, 31529.5, 31614, and 31732, the board
20 of retirement and the board of investment may contract with the
21 county counsel or with attorneys in private practice or employ staff
22 attorneys for legal services.

23 (b) Notwithstanding Sections 31522.5, 31522.7, 31529.5, and
24 31580, the board shall pay, from system assets, reasonable
25 compensation for the legal services.

26 (c) This section applies to any county of the 2nd class, 7th class,
27 9th class, 14th class, 15th class, or the 16th class as described by
28 Sections 28020, 28023, 28028, 28030, 28035, 28036, and 28037.

29 (d) This section shall also apply to any other county if the board
30 of retirement, by resolution adopted by majority vote, makes this
31 section applicable in the county.

32 SEC. 4. Section 31557.3 of the Government Code is amended
33 to read:

34 31557.3. On the date a district, as defined in subdivision (l) of
35 Section 31468, is included in the retirement system, any personnel
36 appointed pursuant to ~~Section~~ Sections 31522.5, 31522.9, and
37 31529.9 who had previously been in county service shall continue
38 to be members of the system without interruption in service or loss
39 of credit. Thereafter, each person entering employment with the

1 district shall become a member of the system on the first day of
2 the calendar month following his or her entrance into service.

3 SEC. 5. Section 31580.2 of the Government Code is amended
4 to read:

5 31580.2. (a) In counties in which the board of retirement, or
6 the board of retirement and the board of investment, have appointed
7 personnel pursuant to Section 31522.1, 31522.5, 31522.7, or
8 31522.9, the respective board or boards shall annually adopt a
9 budget covering the entire expense of administration of the
10 retirement system which expense shall be charged against the
11 earnings of the retirement fund. The expense incurred in any year
12 may not exceed the greater of either of the following:

13 (1) Twenty-one hundredths of 1 percent of the accrued actuarial
14 liability of the retirement system.

15 (2) Two million dollars (\$2,000,000), as adjusted annually by
16 the amount of the annual cost-of-living adjustment computed in
17 accordance with Article 16.5 (commencing with Section 31870).

18 (b) Expenditures for computer software, computer hardware,
19 and computer technology consulting services in support of these
20 computer products shall not be considered a cost of administration
21 of the retirement system for purposes of this section.